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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,076	11/21/2001	Cory O. Nykoluk	16513-8679	2127
38790	7590	04/19/2005	EXAMINER	
DEAN D. SMALL C/O ARMSTRONG TEASDALE LLP ONE METROPOLITAN SQUARE, SUITE 2600 ST. LOUIS, MO 63102-2740			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,076

Applicant(s)

NYKOLUK ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-76 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 42-76 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/30/04, 12/29/03, 10/03/02</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. A translated copy of Taiwain 090222199 showing the publication date is not available.

Applicant is requested to provide a copy showing the page with the publication date.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the locking member in claims 45, 49, 53, 57, 58, 68, 69, 71, the releasable member on the towing handle in claims 58-66; and 69 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claims 45, 49, 57, 58-66, 69, 71, and 76 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains

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subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to show how the locking member locking the arm in one retracted and extended position, and the releasable member on the towing handle. This is also a new matter rejection.

4. Claim 42-44, 46-48, 50-52, 54-56, 67, 68, 70, and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by Bellini (WP 01/52687). Bellini teaches a piece of baggage, at least one wheel, an arm 15, 16 having a length with opposite proximal and distal ends, a towing handle 20 having a grip portion with a length being rotationally connected to the distal end of the arm so as to allow rotation of the towing handle about two pivot axes relative to the arm, wherein the arm is moveable between a retracted position and an extended position, and wherein the baggage can be positioned by towing by grasping the grip portion extending the arm and rotating the grip portion about the two axes relative to the arm.

Regarding claims 44, 48, 52, and 56, note the stem above portion 36 and the lower horizontal member in Fig. 5 forms a T shaped handle as claimed.

Regarding claim 50, the handle in Bellini is capable of being position in the position as claimed.

Regarding claim 54, Bellini teaches the providing of a hand-towed piece of baggage, at least one wheel. The grasping of the grip portion, the extending of the towing handle in the extended position and the pivoting the towing handle relative to the distal end so as to configure the baggage into a towing position. With respect to the step of extending and pivoting without

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releasing the grasp, the baggage in Bellini is capable of the step, i.e., portion 23 along with portion 19 can be grasped together.

Regarding claim 67, the towing handle in Bellini is capable of oriented in the upward position as claimed in the retracted position.

Regarding claim 72, note the stem in Fig. 5 extending above portion 36.

5. Claims 44, 48, 52, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini in view of Liang (5464080). To the degree it is argued that Bellini does not teach a T-shaped handle. It would have been obvious to one of ordinary skill in the art to provide a T shaped handle in Bellini as taught by Liang to provide an alternative towing handle.

6. Claims 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini in view of Lin (6179101). It would have been obvious to one of ordinary skill in the art to provide a receptacle that is flush with the handle in Bellini as taught by Lin to keep the handle secured.

7. Claims 54, 55, 73, and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini in view of Lowenstein. To the degree it is argued that Bellini does not teach the step of extending and pivoting without releasing the grasp. Lowenstein teaches that it is known in the art to provide a grasping member 34 can be operate the steps of extending and pivoting without releasing the grasp. It would have been obvious to one of ordinary skill in the art to provide the handle of Bellini in the back of a baggage such that the handle can be extended and pivoted without releasing the grasp in Bellini as taught by Lowenstein to provide an alternative means for operating the handle.

Regarding claims 73, and 75, it would have been obvious to one of ordinary skill in the art to provide a receptacle in Bellini as taught by Lowenstein to secure a handle. It would have

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been obvious to one of ordinary skill in the art to provide a receptacle in Bellini as taught by Lowenstein to keep the handle secured.

8. Claims 45, 49, 53, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini in view of either Stilley (5353900) or Jserng (5397151). It would have been obvious to one of ordinary skill in the art to provide a locking mechanism for the arm in Bellini as taught by either Stilley or Jserng to keep the handle secured in the retracted position.

9. Claims 42, 43, 45-47, 49-51, 53-55, 57, 67, 68, 70, 72, 73, and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhaney et al. (5249438). Rhaney teaches a piece of baggage, at least one wheel, an arm 64, a towing handle with grip at 52 and connected to the distal of the arm 64 to allow rotation of the towing handle at about the two axes at 62 and rotation as shown in Fig. 5.

Regarding claim 45, note the locking member 69.

Regarding claim 67, note portion 52 in the upward direction in Fig. 2.

10. Claims 42, 43, 45-47, 49-51, 53-55, 57, 67, 69, 70 and 76 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadow (WO98/56274). Sadow teaches a piece of baggage, at least one wheel, an arm 50 (Fig. 13), a towing handle with grip at 54 and connected to the distal of the arm to allow rotation of the towing handle at about the two axes at the two pivoting pins in Fig. 13.


Regarding claim 45, note the locking mechanism in Fig. 9.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (571)272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai 
Primary Examiner
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